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UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

INSTRUCTIONS RELATING TO ASSIGNMENT AND USE
OF FORM ACP-69

(Pursuant to section 8 (g) of the Soil Conservation
and Domestic Allotment Act)

U. S. Department of Agriculture

I. PURPOSE AND SCOPE OF ASSIGNMENTS

A. To finance making a crop.—A payment which may be made to a farmer (hereinafter referred to as the "assignor") under section 8 of the Soil Conservation and Domestic Allotment Act, as amended, may be assigned only as security for cash or advances to finance making a crop. To finance making a crop means (1) to finance the planting, cultivating, or harvesting of a crop, including the purchase of equipment required therefor; (2) to provide food, clothing, and other necessities required by the assignor or persons dependent upon the assignor for the purpose of making a crop; or (3) to finance the carrying-out of soil-building or range-building practices. Nothing contained herein shall be construed to authorize an assignment given to secure the payment of the whole or any part of the purchase price of a farm or the payment of the whole or any part of a cash or fixed commodity rent for a farm.

B. Cash or advances.—An assignment may be given (1) to secure repayment of cash advanced to the assignor to cover the cost of supplies or services required by him to make a crop, (2) to secure payment for supplies or services furnished to the assignor to make a crop, or (3) to secure the repayment of cash or the cash value of supplies or services being advanced in successive installments or on the order of the assignor pursuant to a contract or agreement. The amount of the cash or the cash value of the supplies or services must be stated exactly. No assignment shall be recognized by the United States when it is given to secure repayment of an indefinite sum or for the total amount or a part of the total amount of any payment without stating the amount of the cash or the cash value of the supplies or services advanced or being advanced pursuant to the contract or agreement.

C. Without discount.—The payments assigned shall not be discounted, by charging the assignor more than the current cash price for any supplies furnished, by deducting interest in advance from any cash advanced, or in any other manner whatsoever.

D. The current crop year.—The cash, supplies, or services must be advanced to the assignor to finance making a crop during the year current at the time the assignment is made and must not be made to secure or pay any preexisting indebtedness of any nature whatsoever. The assignment shall be effective only with respect to the payments which may be or become due and payable to the assignor for participation in the program under section 8 of the Soil Conservation and Domestic Allotment Act, as amended, for the year current at the time the assignment is given. The unpaid bal-

ance of any amount advanced in 1 year and secured by an assignment cannot be secured by an assignment of any payments which may become due and payable to the assignor for participation in the program for any subsequent year.

E. The farm.—Each assignment must be limited to the payment which may be made to the assignor with respect to a single farm or a single ranching unit as determined for the purpose of the Agricultural Conservation Program or the Range Conservation Program under section 8 of the Soil Conservation and Domestic Allotment Act, as amended, except, however, that beginning with the 1940 Agricultural Conservation Program where an assignor has an interest in two or more farms in a county in the North Central or Western Region the assignment must relate to the payment which may be made to him with respect to all such farms in the county.

F. Payment to the assignee.—Unless the indebtedness secured by an assignment has been repaid or otherwise discharged prior to the time application for payment is made by the assignor, the amount of the payment to which the assignor is entitled under his application, or an amount equal to the indebtedness, or the amount of the indebtedness which remains unpaid or undischarged, whichever is the smallest, will be paid directly to the assignee: *Provided, however,* That in case payment should happen to be made to the assignor there is no authority of law for any suit against or the imposition of any liability upon the Secretary of Agriculture or any disbursing agent. If payment is made to the assignee and the indebtedness secured by the assignment has been repaid in whole or in part before the payment is received by the assignee, the assignee shall receive the payment in trust to pay over to the assignor, in full and without discount, all of the payment except any amount of the original advance remaining unpaid.

G. Payment to the assignor.—If the indebtedness secured by an assignment has been repaid or otherwise discharged prior to the time application for payment is made by the assignor, payment shall be made to the assignor without regard to such assignment. If the indebtedness secured by an assignment has not been repaid or otherwise discharged prior to the time application for payment is made by the assignor, the amount of the payment to which the assignor is entitled under his application in excess of the amount thereof assigned shall be paid to the assignor.

II. THE ASSIGNOR AND ASSIGNEE

A. The assignor.—Any person, whether a landlord, tenant, or sharecropper, who is eligible for a payment under the Agricultural Conservation Program may assign such payment, except, however, that if such person is a standard rehabilitation client of the Farm Security Administration, or is becoming such a client by virtue of the Farm Security Administration having decided to furnish him cash or supplies for the purpose of making a current crop, he may assign such payment only to the Farm Security Administration. A further assignment by the assignee of a payment assigned to him shall not be recognized by the United States.

B. The assignee.—Any person, including a department or bureau of the Federal Government or corporate governmental agency wholly

owned and controlled by the Federal Government, who advances cash, supplies, or services to the farmer for the purpose of financing the making of a crop during the year current at the time the assignment is given may be named as assignee, except, however, that if the farmer is a standard rehabilitation client of the Farm Security Administration, or is becoming such a client by virtue of the Farm Security Administration having decided to furnish him cash or supplies for the purpose of making a current crop, the Farm Security Administration is the only person who may be named as assignee. An assignment shall be effective in favor of and binding upon the assignee and the persons entitled by law to receive and administer the personal estate of the assignee in case of his death, incompetency, insolvency, or bankruptcy.

III. EXECUTION OF ASSIGNMENT

A. In writing.—The assignor must execute the original and two copies of part I Form ACP-69. Assignments made orally or in writing upon forms other than Form ACP-69 shall not be recognized by the United States. The term "Form ACP-69" means the official prescribed form bearing that designation and printed by the United States Government Printing Office.

B. Execution of part I of Form ACP-69.—1. Part of Form ACP-69 must show the following information:

a. The State and county code and identifying serial number for the farm or ranching unit with respect to which the assignment is made except that in the North Central and Western Regions the State and county code shall be followed by the words "All farms".

b. The State and county in which the assignor resides.

c. The typed or printed name of the assignor and his full mail address.

d. The amount of the cash or the cash value of the supplies or services advanced by the assignee to the assignor or the amount thereof which is being advanced to the assignor pursuant to the contract or agreement between the assignor and the assignee. Whether or not the assignment is to include interest on the amount advanced, the *actual* amount advanced (or the cash value thereof) must be entered in the spaces indicated. Interest may be included in the assignment only at the request of the assignor, and where included, a provision to the following effect must be inserted immediately above the line designated for the name and address of the assignee: "plus interest thereon at the rate of ---- percent per annum from -----, 19--." The rate of interest must not be in excess of the maximum rate chargeable under the law of the State in which the farm is located, and the date will be the date on which the advance was made. (If the assignment covers advances made at different times, the date will be the average date with respect to the period of time during which the advances are made.)

e. The typed or printed name of the assignee and his full mail address.

f. The place at which the assignment was executed and the date thereof.

2. Part I of ACP-69 shall be signed by the assignor and witnessed by a member of the county or community committee, or by the treasurer or secretary of such committee for the county or community in which the farm or ranching unit is deemed to be located. An assignment made by a natural person other than an absentee landlord shall not be recognized by the United States when made by an agent of the assignor. An assignment may be executed by a duly authorized officer of a corporation, firm, association, or other legal entity, or by the agent of a non-resident landlord, or by a member of a partnership, or an executor, administrator, or other person authorized by law to administer the personal estate of a farmer, provided proper evidence of the authority of such agent or fiduciary is presented; such evidence to be in accordance with ACP-16, "Instructions on Signatures and Authorizations." In case any payment would be made to two or more persons jointly, any assignment thereof must be executed by each such person.

3. In all cases part I of Form ACP-69 must be executed in the office of the county agricultural conservation association at which application for the assigned payment will be made or at such places in the county and at such times as are designated by the county committee.

C. Number of assignments.—Not more than one assignment of a payment which may be made to a person shall be recognized by the United States. The assignee may release an assignment previously filed by executing and filing part III of Form ACP-69 and a new assignment may be executed and filed either in favor of the original assignee or another. Any released assignment must remain on file in the office of the county agricultural conservation association.

IV. REPRESENTATION OF ASSIGNEE AND RELEASE OF ASSIGNMENT

A. Representations of assignee.—An assignment shall not be recognized by the United States unless and until the assignee, by executing and filing part II of Form ACP-69 in the office of the county agricultural conservation association, (1) represents that there was not deducted from any cash advanced to the assignor any interest, fee, or other charge of any kind and that no more than the current cash price has been charged for any supplies or services advanced to the assignor, (2) states the amount of the advance actually made to the assignor which has not been repaid or otherwise discharged, and (3) agrees that he will receive any sum paid to him by virtue of the assignment in trust to pay over to the assignor in full and without discount any surplus thereof which may remain after discharging that part of the indebtedness which remains unpaid or undischarged at the time such sum is paid to the assignee.

B. Execution of part II of Form ACP-69.—1. When the indebtedness in respect of which an assignment was given is not paid or otherwise discharged at the time the assignor makes application to the United States for payment, part II of Form ACP-69 must show the following information:

a. The typed or printed name of the assignor and his full mail address.

b. That part of the amount advanced to the assignor which is secured by the assignment (including accrued interest, if

specified in part I of Form ACP-69) and remains unpaid or undischarged at the time part II of Form ACP-69 is executed. If this amount includes any accrued interest, a provision to the following effect must be inserted immediately above the line provided for amount: "(including \$ ----- accrued interest)". Any interest included in the amount shown as unpaid or undischarged must have been computed at a rate not in excess of that specified in part I of Form ACP-69 and for a period not exceeding that during which the amount advanced remained unpaid. In no event may such period extend beyond the date on which part II of the form is executed.

c. The place at which part II of Form ACP-69 was executed and the date of execution of part II.

2. Part II of Form ACP-69 must be signed by the assignee, witnessed by a disinterested person, and filed in the office of the county agricultural conservation association in which the related assignment is filed at the time or prior to the time application is made by the assignor to the United States for payment. In case of the death, incompetency, insolvency, or bankruptcy of the assignee, part II must be executed by the person or persons entitled by law to receive and administer the personal estate of the assignee. Whenever part II is executed by a person or persons acting on behalf of the assignee in a representative capacity or by operation of law, proper evidence of the authority of the person or persons must be presented; such evidence to be in accordance with ACP-16, "Instructions on Signatures and Authorizations."

3. Part II of Form ACP-69 may be executed on the same Form ACP-69 bearing the execution of part I of Form ACP-69 which has been filed in the office of the county agricultural conservation association. Part II of Form ACP-69 may also be executed on a separate Form ACP-69 provided it is accurately identified by means of the State and county code and identifying serial number of the assignment to which it relates.

C. Release of assignment.—When the indebtedness in respect of which an assignment was given is paid or otherwise discharged prior to the time the assignor makes application to the United States for payment, the assignee shall forthwith execute part III of Form ACP-69 and file it in the office of the county agricultural conservation association. Any released assignment shall remain on file in the county office. Part III of Form ACP-69 must be signed by the assignee in the presence of a disinterested witness and must show the typed or printed name of the assignor and his full mail address and the place and date of execution. In the event of the death, incompetency, insolvency, or bankruptcy of the assignee, part III of Form ACP-69 must be executed by the person or persons entitled by law to administer the personal estate of the assignee. Whenever part III of Form ACP-69 is executed by a person or persons acting on behalf of the assignee in a representative capacity or by operation of law, proper evidence of the authority of the person or persons must be presented; such evidence to be in accordance with ACP-16, "Instructions on Signatures and Authorizations." Part III of Form ACP-69 may be executed on the same Form ACP-69 bearing the execution of part I of Form ACP-69 which has been filed in the office of the county agricul-

tural conservation association. Part III of Form ACP-69 may also be executed on a separate Form ACP-69 provided it is accurately identified by means of the State and county code and identifying serial number of the assignment to which it relates.

D. Other proof that indebtedness has been repaid or otherwise discharged.—If the assignor represents to the county committee that the indebtedness secured by an assignment has been paid or otherwise discharged but that the assignee fails or refuses to execute part III of Form ACP-69, the county agricultural conservation committee shall notify the assignee of the representations made by the assignor. If, after investigation and opportunity for the assignee to be heard, the county committee finds from the evidence presented that the indebtedness in fact has been paid or otherwise discharged, there shall be attached to the assignment a written statement to that effect, signed by the members of the committee and the county committee shall notify the assignee of such finding, and thereafter such assignment shall, so far as concerns the United States, be treated as being void and of no effect.

V. FILING AND PRIORITY

A. Manner of filing assignments.—An assignment shall not be recognized by the United States unless part I of Form ACP-69 is filed in the office of the county agricultural conservation association on or prior to the closing date set by the appropriate Regional Director, or prior to the time that application is made to the Government for the payment assigned, whichever is earlier, and part II of Form ACP-69 is filed in the office of the county agricultural conservation association prior to the time that application is made to the Government for the payment assigned. An assignment must be filed in the office of the agricultural conservation association at which application for the assigned payment will be made.

B. Time of filing.—The county agricultural extension agent or the county committee shall enter on part I of each Form ACP-69 the date on which Form ACP-69 with part I executed was filed.

C. Copies for assignor and assignee.—One copy of the assignment may be retained by the assignor and one copy of the assignment may be retained by the assignee.

D. Priority.—In case more than one assignment of the same payment is made, the assignment first filed in the office of the county agricultural conservation association shall be recognized by the United States.

VI. MISCELLANEOUS

A. Effect of assignment.—An assignment shall not become effective insofar as the United States is concerned until application for payment is made by the assignor, his heirs, or a fiduciary who by virtue of his office succeeds to the right of the assignor to make such application, and it is administratively determined that such payment is to be made. Any assignment made shall be subject to the provisions of the program under which the payment is made and to the rights of counterclaim, recoupment, or set-off to which the United States is entitled as provided in the regulations or orders issued by the Secretary of Agriculture, on account of the assignor's indebted-

ness to the Agricultural Adjustment Administration or Commodity Credit Corporation. An assignment shall not be recognized by the United States if, at the time part I thereof is filed in the office of the county agricultural conservation association there has previously been filed in that office notice that any other agency of the United States, in accordance with the Revised Order Governing Set-offs, as supplemented, approved by the Secretary of Agriculture, has requested that a set-off be made against the assignor's payment.

B. Liability of the Secretary or disbursing agents.—Neither the Secretary of Agriculture nor any disbursing agent shall be liable in any suit if payment is made to the assignor without regard to the existence of any assignment and nothing contained herein shall be construed to authorize any suit against the Secretary of Agriculture or any disbursing agent if payment is not made to the assignee or if payment is made to only one of several assignees.

C. Misrepresentations.—If the county agricultural conservation committee shall find or have reason to believe that any payment assigned was discounted or that any material misrepresentation was made by the assignor or the assignee, or both, in executing either part I or part II of Form ACP-69, the county committee shall forthwith give notice thereof to the assignor and the assignee and request them to show affirmatively whether or not the payment assigned was discounted or any material fact was misrepresented in the execution of part I or part II of Form ACP-69. If, after investigation and opportunity for the assignor and assignee to be heard, the county agricultural conservation committee finds that the payment assigned was in fact discounted or that any material misrepresentation was in fact made, there shall be attached to the assignment a written statement to that effect signed by the members of the committee and the county committee shall notify the assignor and assignee of such finding, and thereafter, such assignment, insofar as concerns the United States, shall be treated as being void and of no effect. If a person, who under Paragraph A, Part II, as revised in I above, is eligible to assign his payment only to the Farm Security Administration, assigns his payment to some other person and files part I of ACP-69 in the office of the county agricultural conservation committee, such assignment, insofar as concerns the United States, shall be treated as being void and of no effect if the county agricultural conservation committee discovers such invalid assignment before a United States Treasury check drawn in favor of the assignee pursuant to such assignment is delivered to him.

D. Effective time.—Assignments of payments which may be made to farmers under section 8 of the Soil Conservation and Domestic Allotment Act, as amended, shall first be effective with respect to farming operations carried out in the calendar year 1938.

E. Other agricultural programs.—Payments which may be made to farmers under the Agricultural Conservation Program or the Range Conservation Program may be assigned and may be recognized by the United States in accordance with the conditions set forth herein but no provision is made for the recognition of any assignments of payments which may be made pursuant to the 1937 Cotton Price Adjustment Payment Plan, the Sugar Act of 1937, or programs other than those formulated under section 8 of the Soil Conservation and Domestic Allotment Act, as amended.

F. Forms ACP-69 available at county offices.—A farmer who desires to assign payments which may be made to him under section 8 of the Soil Conservation and Domestic Allotment Act, as amended, may secure copies of Form ACP-69 at the office of the county agricultural conservation association. Copies of Form ACP-69 will not be furnished to persons who intend to advance cash, supplies, or services to farmers. However, any person desiring to advance cash, supplies, or services to farmers may secure sample copies of Form ACP-69 at the office of the county agricultural conservation association.

Issued with the approval of the Administrator this 3rd day of February, 1940.